

The Americans with Disabilities Act State ADA Compliance

Kentucky state government is committed to the full implementation of the Americans with Disabilities Act (ADA). It is the policy of the Commonwealth to maximize the full inclusion and integration of people with disabilities in all aspects of employment and all programs, services and activities.

The following is stated from the Employee Handbook of the Commonwealth of Kentucky:

Discrimination Prohibited: Employees with disabilities who are otherwise qualified may not be discriminated against in any areas of employment including, but not limited to, job application and compensation procedures, fringe benefits available by virtue of employment and activities sponsored by the state.

Limiting, Segregating, and Classifying: Employees with disabilities shall not be limited, segregated, or classified in a way that adversely affects their employment opportunities or status.

Contractual or Other Arrangements: The Commonwealth will not participate in contractual or other arrangements or relationships that would subject qualified employees with disabilities to the discrimination prohibited by the ADA.

Reasonable Accommodations: The Commonwealth will make reasonable accommodation to the known physical or mental limitations of an otherwise qualified employee with a disability, unless it can be shown that the accommodation would impose an undue burden. After a qualified employee requests reasonable accommodation, all agencies will make every reasonable effort to find out what is needed and provide the appropriate accommodations. This is to be an interactive process with the agency consulting with the employee with a disability.

If anyone feels like they have been discriminated against or threatened in any of the areas listed above while exercising his or her rights under the Americans with Disabilities Act, it needs to be reported immediately to the Agency Americans with Disabilities Act Coordinator or the State Americans with Disabilities Act Coordinator. The complaint should be in writing and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem and witnesses of incidents of discrimination. (All information pertaining to the ADA Coordinator is listed below).

Administration of Tests: The Personnel Cabinet will select and administer tests concerning employment in the most effective manner to ensure that, when a test is administered to a job applicant or employee who has a disability that impairs sensory, manual or speaking skills, the tests results accurately reflect skills, aptitude, or whatever other factor of the applicant or employee that the test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

Retaliation and Coercion: The Commonwealth will not coerce, intimidate threaten, harass, or interfere with any individual exercising or enjoying his or her rights under the ADA or because that individual aided or encouraged any other individual in the exercise of rights granted or protected by the ADA. Employees may file a complaint as set forth in Employee Grievances and Complaints. Please direct any questions or concerns to your ADA Coordinator, Norb Ryan 502-564-3850

The ADA Coordinator's role for each agency includes:

- Planning and coordinating overall compliance efforts
- Ensuring that the five action steps are achieved
- Receiving and coordinating investigations for grievances on programs, services, practices, and employment

The five action steps mentioned above are as follows:

- Step One – Designate a Responsible Employee to be the Americans with Disabilities Act Coordinator
- Step Two – Provide Notice of ADA Requirements
- Step Three – Establish a Grievance Procedure
- Step Four – Conduct a Self- Evaluation
- Step Five – Develop a Transition Plan

Page Three
American with Disabilities Act

Step One – Name of Designated Employee

The Commonwealth of Kentucky has designated Norb Ryan as State American with Disabilities Act Coordinator.

The address and telephone/fax number and email address for the ADA Coordinator is as follows:

Norb Ryan
State Americans with Disabilities Act Coordinator
Capital Plaza Tower
2nd Floor
500 Mero Street
Frankfort, KY 40601

Phone Number: 502-564-3850
1-800-423-2933

Fax Number: 502-564-2316

Email: norbj.ryan@ky.gov

Step Two – Provide Notice of ADA Requirements

See attachment # 1 – Notice of ADA requirements will be posted on Bulletin Boards in all Facilities of the Commonwealth of Kentucky and will be given out and discussed along with these guidelines and procedures during new employee orientation to ensure employees are made aware of their rights pertaining to the ADA.

When the Commonwealth of Kentucky advertises for a position in a newspaper, the Notice of ADA requirements will be added to the advertisement.

Step Three – Establish a Grievance Procedure

See attachment # 2 – The established grievance procedure will be posted on bulletin boards in all Facilities located within the Commonwealth of Kentucky and will be given out and discussed along with these guidelines and procedures during new employee orientation to ensure employees are made aware of their rights pertaining to the ADA.

Step Four – Conduct a Self-Evaluation

Identify any policies or practices that do not comply with Title II requirements

Modify policies and practices to bring them into compliance

Identify physical barriers that prohibit accessibility of buildings, programs and services

Step Five – Develop a Transition Plan

- a- Each state agency will compile a list of all facilities owned or leased by the agency in which programs are operated.
- b- Record information about each facility, which will be used in planning and prioritizing modifications.

The agency will maintain a copy of this transition plan along with the ADA Coordinator and will provide an updated plan with procedures to the State ADA Coordinator.

NOTICE OF THE AMERICANS WITH DISABILITIES ACT REQUIREMENTS

The Commonwealth of Kentucky does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. The Commonwealth of Kentucky does not discriminate on the basis of disability in its hiring or employment practices.

This notice is provided as required by Title II of the Americans with Disabilities Act of 1990.

Name:

Title:

Office Address:

Phone Number:

Days/Hours Available:

Individuals who need auxiliary aids for effective communication in programs and services of the Commonwealth of Kentucky are invited to make their needs and preferences known to the agency ADA Coordinator in writing to the above address.

GRIEVANCE PROCEDURE

Employees may file a complaint as set forth in Employee Grievances and Complaints stated in the Employee Handbook, page 26, under Retaliation and Coercion.

Occasionally employees are faced with situations that cannot be resolved through informal complaint processes. In such cases the employee may wish to file a formal grievance with his or her agency. The following administrative regulation (101 KAR 1:375) provides for those cases when an appeal to the Personnel Board might be unnecessary or premature. The employee grievance procedure allows many serious matters to be resolved in-house through a formal structure designed to save employees and their agencies both time and unnecessary effort.

A grievance is a complaint filed by an employee which concerns some aspect of his or her conditions of employment over which the cabinet or agency has control and which has occurred or of which the employee has become aware, through the exercise of due diligence, within thirty (30) days prior to filing.

Employees in the classified service who believe that they have been subjected to unfair or unjust treatment concerning their conditions of employment may file a grievance.

Any grievance concerning an action that is appealable directly to the Personnel Board under KRS 18A.095 may also be filed with the appropriate cabinet or agency. The filing of a grievance with the appropriate cabinet or agency does not prohibit the employee from also filing an appeal with the Personnel Board, or extend the statutory appeal period.

An employee utilizing this procedure is entitled to file a grievance without interference, coercion, discrimination, or reprisal.

An appointing authority must inform its employees of the provisions of this administrative regulation, or any modifications in the levels of review that have been approved by the Personnel Board for the employee's cabinet or agency under this administrative regulation.

The Commonwealth provides to the employees, through the appointing authorities, a grievance Form to be used for filing a grievance. Grievance forms may also be inspected, copied or obtained at the Personnel Board, 28 Fountain Place, Frankfort, KY 40601, 8:00 a.m. to 4:30 p.m., Monday through Friday.

Procedures:

A grievance is to be filed with an employee's immediate supervisor within thirty (30) days following occurrence or the employee becoming aware, through the exercise of due diligence, of the action that is the subject of the grievance. If the action or conduct of the first line supervisor is the basis of an employee's grievance, the grievance may be filed with the second line supervisor.

An employee must state in writing the basis of the grievance or complaint together with the corrective action desired. If an employee wishes to submit additional information or documentation, it should be attached to the grievance.

If a grievance is filed that alleges discrimination on the basis of race, color, religion, national origin, sex, **DISABILITY**, age forty (40) or over, sexual orientation, gender, identity, ancestry, and veteran's status, the recipient of this grievance must immediately notify the agency ADA Coordinator.

Interviews to evaluate or investigate the grievance outside of normal work hours with the grievant or other employees entitle them to compensatory time.

Interviews to evaluate or investigate the grievance held with the grievant or other employees do not require the use of leave time.

Grievant may have a representative present at each step of the grievance procedure.

IMPORTANT: A grievance cannot be done on state time using state equipment or supplies.

Grievance Levels:

The person with whom the grievance is filed shall, upon investigation, issue findings and a decision in writing to the employee within five (5) workdays after receipt of the grievance. If the responding supervisor responding supervisor is unable to resolve the complaint to the satisfaction of the employee, the employee may request review of the grievance within two (2) workdays of receipt of the decision to the next appropriate level.

If the line supervisors are unable to resolve the grievance to the satisfaction of the employee, the employee may request review of the grievance within two (2) workdays of receipt of the decision of the final line supervisor by the appointing authority who, upon investigation, shall issue findings and a final determination in writing to the employee within ten (10) workdays. Unless the time limits have been extended by agreement of the parties, failure of supervisory or management personnel to respond within prescribed time limits shall automatically advance the grievance to the next review level.

Any intermediate grievance level may be waived by written agreement of parties.

Appeals to the Personnel Board

Employees who have been dismissed, suspended, demoted, or otherwise penalized by formal action must receive written notice of such actions and be informed of their appeal rights. KRS 18A.095 explains the procedures for hearing the appeals. The full text of 101 KAR 1:365 is available from your personnel officer and the Personnel Cabinet's Web page. You may obtain an employee appeal form by contacting your agency personnel administrator or the Personnel Board. Time limitations for filing appeals with the Personnel Board vary from 30 days to one year upon the nature of the alleged penalization and must be determined by reference to the applicable section of KRS 18A.

REQUEST FOR REASONABLE ACCOMMODATION

MEDICAL CONSENT FORM

The Office of the Kentucky State Americans with Disabilities Act Coordinator may require medical information when an employee has requested reasonable accommodation under the Americans with Disabilities Act to determine whether an employee has a disability and if the employee can continue to perform his/her essential job functions.

If the medical information reveals or confirms that an employee has a disability, the information will not be used by the Commonwealth of Kentucky to unlawfully discriminate against the employee on the basis of the disability. The Commonwealth of Kentucky will not use the medical information to discharge an employee unless the disability limits the individual in the performance of essential functions of his/her job, and no reasonable accommodation can be made.

Any medical information obtained as a result of the consent form will be maintained in separate medical files and will be treated as confidential information. Medical information may be disclosed in accordance with the Americans with Disabilities Act in some circumstances, including:

1. Supervisors and managers may be informed about necessary restrictions on the work or duties of an employee and necessary accommodations;
2. First aid and safety personnel may be informed, where appropriate, if a disability might require emergency treatment; and
2. Government officials investigating compliance with federal law shall be provided relevant information upon request.

I _____, hereby consent to the release of pertinent medical information by my physician or other health care professional(s) concerning my ability to safely and effectively perform my job duties. I authorize my physician or other health care professional(s) to release medical information and provide medical opinions as to my physical or mental ability to perform my position for the Commonwealth of Kentucky or its authorized representatives.

Signature

Date

**Commonwealth of Kentucky
STATE ADA COORDINATOR'S OFFICE
MEDICAL REPORT**

This form is to be completed by the employee's physician. The physician's recommendation will help determine if the employee is eligible to return to work or is disabled under the Americans with Disabilities Act and the specific accommodation(s) needed. The Essential/Marginal Duties Form listing the essential job functions and the physical effort required is attached.

1. _____ has been under my care since _____.
(employee name) (beginning date)

2. CHECK ONE BOX ONLY

- ☐ Employee is released to return to work and perform all functions of the position without restriction on _____.
(date)
- ☐ Employee is permanently disabled and is unable to perform the functions of the position. I recommend that this employee not return to his/her current position.
- ☐ Employee could return to his/her current position only if the _____ Cabinet can provide an accommodation. He/she is substantially limited in these activities:

and cannot perform the following essential functions of the position without reasonable accommodation:

Employee has the ability to perform the following job functions:

Suggested Accommodation(s) that would allow employee to perform the essential job functions:

3. **Specific limitations** Schedule Limitations: No. of hours per day _____
per week _____ for how long? _____

Lifting Limitations: **Maximum Weight** _____ Frequently _____
Maximum Weight Occasionally (2 ½ hrs. per day) _____.

TASK	NEVER	OCCASIONALLY (up to 2 ½ hours per day)	TASK	NEVER	OCCASIONALLY (up to 2 ½ hours per day)
STOOPING			TURNING		
BENDING			KNEELING		
REACHING			CLIMBING		
PUSHING			TYPING		
PULLING			SITTING		
WALKING			GRIPPING		
STANDING			SQUEEZING		
TWISTING			HAMMERING		
OPERATING MOTORIZED EQUIPMENT			OPERATING A MOTOR VEHICLE		
ABOVE SHOULDER LIFTS			OVERHEAD LIFTS		

4. Physician's signature: _____ Date _____

Address:

PHYSICAL EFFORT REQUIRED FOR THIS POSITION: *(CHECK APPROPRIATE BLOCK)*

	SELDOM	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Reaching	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bending	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Climbing/Balancing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stooping/Kneeling/Crouching/Crawling	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Handling/Feeling/Using Fingers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pushing/Pulling	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lifting/Carrying	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Walking/Standing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sitting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Lifting/Carrying – Describe item(s) lifted/carried and distance carried: _____

Heaviest weight lifted/carried (*approximate weight* in pounds):

FREQUENCY OF LIFTING/CARRYING FOR THIS POSITION: *(CHECK APPROPRIATE BLOCK)*

	SELDOM	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Up to 25 lbs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Up to 75 lbs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Over 75 lbs. (With Assistance)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

List any special working conditions or additional physical effort required for this position (may include, but not limited to vision, hearing, fine motor dexterity, inside/outside work, extreme temperatures, particular hazards, noise, vibration, use of special tools, equipment, or work aids):

SUPERVISOR'S SIGNATURE:

EMPLOYEE'S SIGNATURE:

Date _____

Date _____

ESSENTIAL / MARGINAL DUTIES

THIS FORM IS FOR THE FOLLOWING CLASSIFICATION:

EMPLOYEES NAME:	
EMPLOYEESS SSN:	
POSITION NUMBER:	
CLASSIFICATION:	
JOB PURPOSE:	

E Essential Duties (Duties **REQUIRED** of the Position)

M Marginal Duties (Duties which could be reassigned as an ADA accommodation)

N Not Applicable to this position

